

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KERMIT TY POULSON,

Defendant.

CR 23-56-M-DLC

ORDER

This matter comes before the Court on an Unopposed Motion for Psychiatric or Psychological Evaluation and Report. (Doc. 18) filed by counsel to Defendant John Rhodes. The Motion is brought pursuant to 18 U.S.C. §§ 4241 and 4247(b) and (c).

The Court must either grant the Motion or order a hearing on the Motion to determine “if there is reasonable cause to believe that the defendant may be presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.” 18 U.S.C. § 4241(a). If the Court orders a psychological or psychiatric evaluation, the Court may commit the Defendant to be examined for a reasonable period pursuant to § 4247(b).

After reviewing the Motion, the Court finds reasonable cause to believe

Defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

Additionally, the Court hereby prohibits the Government from using any statements made by Defendant during the examination. However, if Defendant uses the competency report at trial or sentencing as a defense, the Government may use the report as well. *See United States v. Nguyen*, 962 F. Supp. 1221, 1222 (N.D. Cal. 1997).

Accordingly, IT IS ORDERED that Defendant's Unopposed Motion for Psychiatric or Psychological Evaluation and Report (Doc. 18) is GRANTED. Defendant shall undergo an evaluation to determine his competency to proceed in this matter in accordance with 18 U.S.C. § 4247(b)-(c) at a federal facility designated by the Bureau of Prisons. The report prepared by the examiner shall be filed with the court with copies provided to counsel for Defendant and the government.

IT IS FURTHER ORDERED that the United States Marshals Service shall request that the Bureau of Prisons designate a federal facility where Defendant shall be evaluated. The United States Marshals Service shall notify the Court when it receives notice of the facility that has been designated.

IT IS FURTHER ORDERED that the preliminary pretrial conference set for December 18, 2024, is VACATED.

IT IS FURTHER ORDERED that pursuant to 18 U.S.C. § 3161(h)(1)(A), all time from the date of this Order until the date of the Court's determination as to Defendant's competency is excludable under the Speedy Trial Act.

DATED this 17th day of December, 2024.



Dana L. Christensen, District Judge
United States District Court